

Message Text

PAGE 01 STATE 280235
ORIGIN ARA-14

INFO OCT-01 ISO-00 EB-08 TRSE-00 STR-05 LAB-04 COME-00
L-03 DOTE-00 /035 R

DRAFTED BY ARA/MEX:ECBITTNER:ME
APPROVED BY EB/IFD:CHMEISSNER
EB/GCP:JSLATTERY
EB/IFD/BP:SALLEN
EB/IFD/OIA:DVGRANT
ARA:R ARELLANO
TREASURY:JGRIFFIN
STR:BSTEINBACCHLABORHFIEKOWSKY(INFO
COMMERCE:R ADES
EB/STA:C BLUM

-----090751 231145Z /14

R 230208Z NOV 77
FM SECSTATE WASHDC
TO AMEMBASSY MEXICO

C O N F I D E N T I A L STATE 280235

E.O. 11652:GDS

TAGS: EINV, EIND, MX

SUBJECT: U.S.-CONSULTATIVE MECHANISM, AD HOC MEETING ON
AUTOMOTIVE DECREE AND PATENT AND TRADEMARK LEGISLATION

SUMMARY: THE AD HOC MEETING ON THE AUTOMOTIVE DECREE
AND PATENTS AND TRADEMARK LEGISLATION WAS CHARACTERIZED
BY A FRANK, BUT FRIENDLY EXCHANGE OF VIEWS ABOUT MEXICAN
OBJECTIVES AND U.S. CONCERNS, BUT DID NOT RESULT IN
MEXICAN AGREEMENT TO MAKE ANY SPECIFIC CHANGES PARTICULARLY
WITH REGARD TO THE AUTOMOTIVE REGULATION. THERE
WAS SOME FLEXIBILITY IN THE MEXICAN POSITION CONCERNING
THE IMPLEMENTATION OF THE PATENT AND TRADEMARK LEGISLATION.
CONFIDENTIAL

PAGE 02 STATE 280235

IN ORDER TO IMPRESS OUR DEEP AND CONTINUING CONCERN
ABOUT THE EFFECTS OF THE REGULATIONS ON U.S. TRADE AND
INVESTMENT, SUBSEQUENT AD HOC MEETINGS MAY BE NECESSARY.
IN THE MEANTIME EVERY OPPORTUNITY SHOULD BE TAKEN TO
CONVEY TO THE GOM AT THE HIGHEST LEVELS BOTH IN MEXICO
AND WASHINGTON OUR CONCERNS WITH THE AUTOMOTIVE LAW. IN
THIS CONNECTION THE EMBASSY SHOULD INFORMALLY ADVISE THE
GOM THAT ASSISTANT SECRETARY KATZ INTENDS TO RAISE THE
MATTER WITH SECRETARY OF COMMERCE SOLANA WHEN THE LATTER
COMES TO WASHINGTON TO SIGN THE TROPICAL PRODUCTS AGREE-

MENT ON NOVEMBER 29. END SUMMARY.

1. AN AD HOC MEETING OF THE ENERGY, MINERALS, INDUSTRY AND INVESTMENT SUBGROUP OF THE U.S-MEXICAN CONSULTATIVE MECHANISM TOOK PLACE NOVEMBER 10 IN WASHINGTON, TO DISCUSS MEXICAN AUTOMOTIVE DECREE AND THE PATENT AND TRADEMARK LEGISLATION. ALTHOUGH THE AD HOC MEETING WAS MOTIVATED IN PART BY STRONG REPRESENTATION BY THE U.S. AUTO INDUSTRY, THE LATTER CHOSE NOT TO AVAIL ITSELF OF THE OPPORTUNITY TO MAKE A PRESENTATION. INDUSTRY REPRESENTATIVES SAID THAT WHILE THE USG HAD LEGITIMATE CONCERNS REGARDING THE PRINCIPLES INVOLVED, THEY WOULD PREFER TO NEGOTIATE THEIR SPECIFIC PROBLEMS DIRECTLY WITH THE GOM. THE MEXICAN SIDE WAS HEADED BY DR. NATAN WARMAN, UNDER SECRETARY FOR INDUSTRIAL DEVELOPMENT ACCOMPANIED BY TWO ASSISTANTS FROM MEXICO AND AMBASSADOR MARGAIN AND TWO MEMBERS OF HIS STAFF. U.S. SUBGROUP CHAIRMAN DEPUTY ASSISTANT SECRETARY OF STATE BOSWORTH OPENED THE MEETING, WHICH SUBSEQUENTLY WAS CHAIRED BY DEPUTY ASSISTANT SECRETARY OF STATE FOR INTERNATIONAL FINANCE AND DEVELOPMENT CHARLES MEISSNER ASSISTED BY REPRESENTATIVES OF ARA, EB, LABOR, COMMERCE, STR, TREASURY. A COMPLETE MEMORANDUM OF THE MEETING IS BEING PREPARED FOR TRANSCONFIDENTIAL

PAGE 03 STATE 280235

MISSION BY POUCH TO THE EMBASSY.

PATENT AND TRADEMARK LEGISLATION

2. WARMAN STRESSED THAT THE PRIMARY PURPOSE OF THE LAW WAS TO ACHIEVE ECONOMIC GROWTH, EXPAND INDUSTRY, AND OVERCOME EMPLOYMENT. THE MAIN PURPOSE OF THE TRADEMARK PROVISIONS IS TO PROTECT MEXICAN FIRMS FROM DOMINATION BY FOREIGN TRADEMARK LICENSORS. HE ADMITTED THE LAW WOULD CAUSE PROBLEMS OF PACKAGING, PUBLICITY, AND RE-TOOLING FOR SOME INDUSTRIES AND THAT GOM INTENDED TO WORK WITH INDUSTRY TO DEVISE WAYS TO COMPLY WITH SPIRIT OF LAW WHILE MINIMIZING COSTS. THE AIM OF THE CERTIFICATE OF INVENTION IS TO MAKE TECHNOLOGY MORE ACCESSIBLE TO MEXICAN INDUSTRY.

3. MEISSNER NOTED THAT WHILE PATENTS CONSTITUTE A TEMPORARY MONOPOLY THEY PROVIDE AN INCENTIVE FOR THE FLOW OF TECHNOLOGY AND REWARD INNOVATION. WITHOUT A VIABLE PATENT SYSTEM, TECHNOLOGY WOULD BE FROZEN. MICHAEL KIRK OF THE U.S. PATENT AND TRADEMARK OFFICE QUESTIONED WHETHER MEXICAN GOALS WOULD BE ACHIEVED BY THE LEGISLATION. IN PARTICULAR HE NOTED CONCERN ABOUT THE TRADEMARK LINKING REQUIREMENT, WHICH WOULD ADD CONSIDERABLE COST TO DOING BUSINESS AND ADVERSELY AFFECT MEXICAN COMPETITIVENESS. IF IT IS TRUE THAT EXPORTS WOULD BE EXEMPT FROM LINKING, IT WOULD BE

USEFUL TO HAVE WAIVER CLARIFIED IN WRITING.

4. KIRK SAID THAT THE PROVISION THAT WOULD REQUIRE A PATENT TO BE EXPLOITED WITHIN FOUR YEARS IS UNREALISTIC SINCE COMPLEX INVENTIONS REQUIRE LONGER TIME TO BE DEVELOPED COMMERCIALY. KIRK ALSO POINTED OUT THAT OTHER DIFFICULT PROVISIONS REQUIRE TECHNOLOGY OWNERS TO FURNISH PROPRIETARY, NON-PATENTED TECHNOLOGY NECESSARY TO USE THEIR INVENTIONS. THESE PROVISIONS ARE UNCLEAR
CONFIDENTIAL

PAGE 04 STATE 280235

AND COULD SERVE TO RETARD TECHNOLOGY FLOW TO MEXICO.

5. WARMAN ADMITTED THAT IMPLEMENTATION OF THE PATENT AND TRADEMARK LAW HAD MANY PROBLEMS INCLUDING SOME OF THOSE INDICATED BY KIRK AND THAT DRAFT REGULATIONS WOULD BE PREPARED CAREFULLY AND DELIBERATELY ON A SECTOR BY SECTOR BASIS. HE HAS REQUESTED PROPOSALS FROM EACH INDUSTRY AND SAID THAT HE WOULD BE WILLING TO GRANT SPECIFIC EXEMPTIONS AND DELAYS WHEN WARRANTED.

AUTOMOTIVE DECREE

6. AFTER OUTLINING THE HISTORY OF THE MEXICAN AUTO INDUSTRY FROM THE INITIAL DECREE IN 1962 AND THROUGH THE SECOND DECREE IN 1972, WARMAN SAID THAT THE OBJECTIVE OF THE PRESENT DECREE IS TO RATIONALIZE THE INDUSTRY BY EQUALIZING THE PRIVILEGES ENJOYED BY THE INDIVIDUAL COMPANIES AND HALT THE BALANCE OF PAYMENTS DRAIN PRODUCED BY THE AUTO INDUSTRY. HE NOTED THAT IN THE LAST FIVE YEARS MEXICO HAS EXPERIENCED A CUMULATIVE DEFICIT IN ITS AUTO TRADE OF DOLS 2.4 BILLION. THE NEW DECREE ABOLISHES THE PRODUCTION QUOTA AND PRICE CONTROLS ON PASSENGER AUTOMOBILES BUT REQUIRES THE MANUFACTURERS TO COMPENSATE FOR THE VALUE OF THEIR IMPORTS EITHER BY INCREASING THE LEVEL OF THEIR MEXICAN INTEGRATION OR INCREASING THE TOTAL VALUE OF AUTOMOTIVE EXPORTS INCLUDING THOSE OF THEIR COMPONENT PARTS MANUFACTURERS. THE CALCULATION OF THE LEVEL OF INTEGRATION UNDER THE DECREE WILL BE BASED ON THE MODEL UNIT PRODUCED RATHER THAN ON THE FIRM.

7. IN RESPONSE TO U.S. QUESTIONING WARMAN ADMITTED THAT DISCRIMINATION IN FAVOR OF MEXICAN FIRMS EXISTS IN TWO WAYS: (1) INDIRECT FOREIGN EXCHANGE COSTS ARE CALCULATED
CONFIDENTIAL

PAGE 05 STATE 280235

INVERSELY PROPORTIONAL TO THE DEGREE OF MEXICAN OWNERSHIP OF THE PLANT; AND (2) ADVANTAGES TO MEXICAN OWNED FIRMS WHICH INCLUDE: (A) THE EXCLUSIVE RIGHT TO MOUNT DIESEL ENGINES IN BUSES AND TRUCKS AND (B) FREEDOM TO CHANGE

FROM PRODUCTION OF LARGE TO SMALL PASSENGER CARS WITHOUT SPECIAL GOM PERMISSION.

8. MEISSNER STATED THAT WHILE U.S. POLICY IS NEITHER TO ENCOURAGE NOR DISCOURAGE U.S. INVESTMENT ABROAD, IF IT

IS ACCEPTED BY THE HOST COUNTRY, IT SHOULD NOT BE DISCRIMINATED AGAINST ON BASIS OF ORIGIN. HE NOTED THAT WHILE THERE DOES NOT SEEM TO HAVE BEEN A CHANGE IN PRINCIPLE FROM THE 1962 DECREE TO THE PRESENT ONE THERE HAS BEEN A PROGRESSIVE TIGHTENING OF THE SCREW, PARTICULARLY WITH REGARD TO BALANCE OF PAYMENTS OFFSETS, WHICH COULD CUT OFF THE FLOW OF INVESTMENT AND TECHNOLOGY. THE GOM'S POLICY OF ATTEMPTING TO ACHIEVE A SECTOR BY SECTOR CURRENT ACCOUNT BALANCING MAY RESULT IN INEFFICIENCIES IN TRADE WITH THE U.S. INSTEAD THE U.S. HOPES THAT MEXICO WILL CONCENTRATE ON EXPORTING FROM THOSE SECTORS IN WHICH IT HAS A COMPARATIVE ADVANTAGE.

9. THE U.S. AUTO INDUSTRY IN MEXICO CLAIMS THAT WITH REGARD TO THE OPTIONS OF INTEGRATE OR EXPORT, IT MUST CHOOSE THE LATTER SINCE THE COST OF MEXICAN COM
<< END OF DOCUMENT >>

Message Attributes

Automatic Decaptioning: X
Capture Date: 22-Sep-1999 12:00:00 am
Channel Indicators: n/a
Current Classification: UNCLASSIFIED
Concepts: AUTOMOTIVE INDUSTRY, MEETINGS, PATENTS, TRADEMARKS, MEETING REPORTS
Control Number: n/a
Copy: SINGLE
Sent Date: 23-Nov-1977 12:00:00 am
Decaption Date: 01-Jan-1960 12:00:00 am
Decaption Note:
Disposition Action: RELEASED
Disposition Approved on Date:
Disposition Case Number: n/a
Disposition Comment: 25 YEAR REVIEW
Disposition Date: 22 May 2009
Disposition Event:
Disposition History: n/a
Disposition Reason:
Disposition Remarks:
Document Number: 1977STATE280235
Document Source: ADS
Document Unique ID: 00
Drafter: ARA/MEX:ECBITTNER:ME
Enclosure: n/a
Executive Order: 11652 GDS
Errors: n/a
Expiration:
Film Number: D770434-0775
Format: TEL
From: STATE
Handling Restrictions: n/a
Image Path:
ISecure: 1
Legacy Key: link1977/newtext/t197711116/baaaeula.tel
Line Count: 184
Litigation Code IDs:
Litigation Codes:
Litigation History:
Locator: TEXT ON-LINE, TEXT ON MICROFILM
Message ID: 90401a10-c288-dd11-92da-001cc4696bcc
Office: ORIGIN ARA
Original Classification: CONFIDENTIAL
Original Handling Restrictions: n/a
Original Previous Classification: n/a
Original Previous Handling Restrictions: n/a
Page Count: 4
Previous Channel Indicators:
Previous Classification: CONFIDENTIAL
Previous Handling Restrictions: n/a
Reference: n/a
Retention: 0
Review Action: RELEASED, APPROVED
Review Content Flags:
Review Date: 29-Mar-2005 12:00:00 am
Review Event:
Review Exemptions: n/a
Review Media Identifier:
Review Release Date: n/a
Review Release Event: n/a
Review Transfer Date:
Review Withdrawn Fields: n/a
SAS ID: 427690
Secure: OPEN
Status: NATIVE
Subject: U.S.-CONSULTATIVE MECHANISM, AD HOC MEETING ON
TAGS: EINV, EIND, MX, US
To: MEXICO
Type: TE
vdkgvwkey: odb://SAS/SAS.dbo.SAS_Docs/90401a10-c288-dd11-92da-001cc4696bcc
Review Markings:
Margaret P. Grafeld
Declassified/Released
US Department of State
EO Systematic Review
22 May 2009
Markings: Margaret P. Grafeld Declassified/Released US Department of State EO Systematic Review 22 May 2009